

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2279

By: Kern

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5
6 AS INTRODUCED

7 An Act relating to marriage, amending 43 O.S. 2001,
8 Section 101, which relates to grounds for divorce;
9 restricting the use of incompatibility as a ground
10 for divorce; and providing an effective date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 43 O.S. 2001, Section 101, is
14 amended to read as follows:

15 Section 101. The district court may grant a divorce for any of
16 the following causes:

17 First. Abandonment for one (1) year.

18 Second. Adultery.

19 Third. Impotency.

20 Fourth. When the wife at the time of her marriage, was pregnant
21 by another than her husband.

22 Fifth. Extreme cruelty.

23 Sixth. Fraudulent contract.
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1 Seventh. Incompatibility. Provided, however, that the court
2 shall not grant a divorce on the ground of incompatibility if:

3 1. There are living minor children of the marriage;

4 2. The parties have been married ten (10) years or longer; or

5 3. Either party files a written objection to the granting of a
6 divorce.

7 Eighth. Habitual drunkenness.

8 Ninth. Gross neglect of duty.

9 Tenth. Imprisonment of the other party in a state or federal
10 penal institution under sentence thereto for the commission of a
11 felony at the time the petition is filed.

12 Eleventh. The procurement of a final divorce decree without
13 this state by a husband or wife which does not in this state release
14 the other party from the obligations of the marriage.

15 Twelfth. Insanity for a period of five (5) years, the insane
16 person having been an inmate of a state institution for the insane
17 in the State of Oklahoma, or inmate of a state institution for the
18 insane in some other state for such period, or of a private
19 sanitarium, and affected with a type of insanity with a poor
20 prognosis for recovery; provided, that no divorce shall be granted
21 because of insanity until after a thorough examination of such
22 insane person by three physicians, one of which physicians shall be
23 a superintendent of the hospital or sanitarium for the insane, in
24 which the insane defendant is confined, and the other two physicians

1 to be appointed by the court before whom the action is pending, any
2 two of such physicians shall agree that such insane person, at the
3 time the petition in the divorce action is filed, has a poor
4 prognosis for recovery; provided, further, however, that no divorce
5 shall be granted on this ground to any person whose husband or wife
6 is an inmate of a state institution in any other than the State of
7 Oklahoma, unless the person applying for such divorce shall have
8 been a resident of the State of Oklahoma for at least five (5) years
9 prior to the commencement of an action; and provided further, that a
10 decree granted on this ground shall not relieve the successful party
11 from contributing to the support and maintenance of the defendant.
12 The court shall appoint a guardian ad litem to represent the insane
13 defendant, which appointment shall be made at least ten (10) days
14 before any decree is entered.

15 SECTION 2. This act shall become effective November 1, 2010.

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